

FOIA, Privacy & Records Management Conference 2009

FOIA Office and Initial Denial Authority Interaction, Roles, Duties, and Responsibilities

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Topics

- Purpose of IDAs
- IDA Responsibilities
- Denial Flow Chart
- Issues
- Appellant Procedure
- OGC Concerns
- Special Processing Requirements
- Future Considerations



Purpose of IDAs

- **Question:**
 - Why do we have IDAs?
- **Answer:**
 - To provide centralized authority & consistent release/denial determinations



IDA Responsibilities

- Promote uniform, centralized release/denial determinations
 - Authority to review records is subject-matter based, not based on record originator
- Issue full or partial denials (including “no records” responses and fee waiver denials) on behalf of the Army, following recommendation by the local FOIA Office
 - Note: the local FOIA office can only release or perform administrative closures

IDA Responsibilities (cont.)



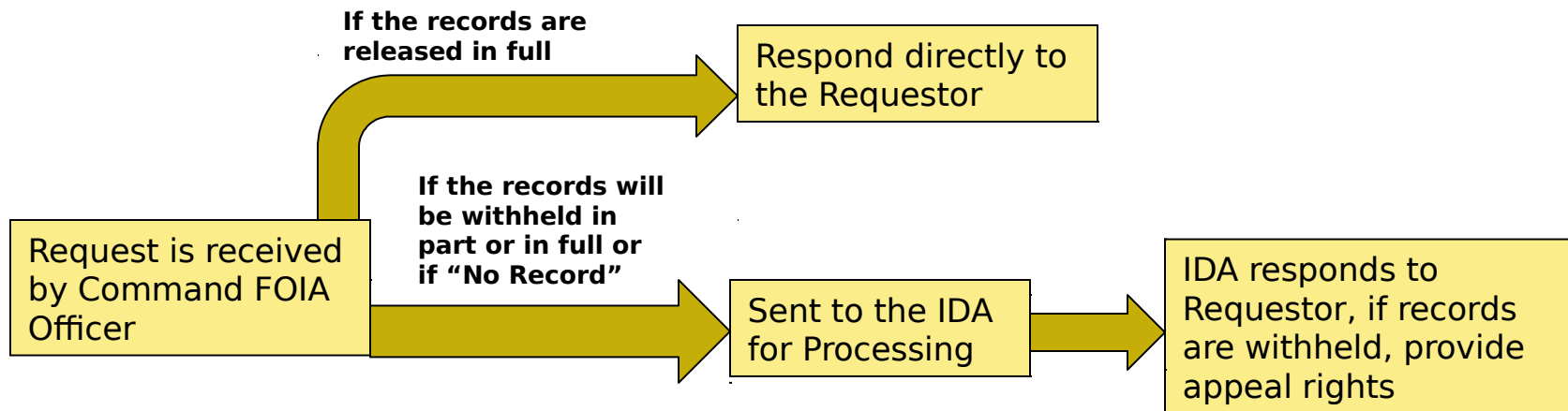
- Coordinate review between IDAs, release to requester made by IDA having primary responsibility of records or where request originally directed
- Coordinating classified records retired to NARA when a mandatory declassification review is necessary
- Act as FOIA Public Liaisons
 - FOIA Offices should list their higher HQ Public Liaison – ex: IMCOM HQ, AMC HQ

IDA Responsibilities (cont.)

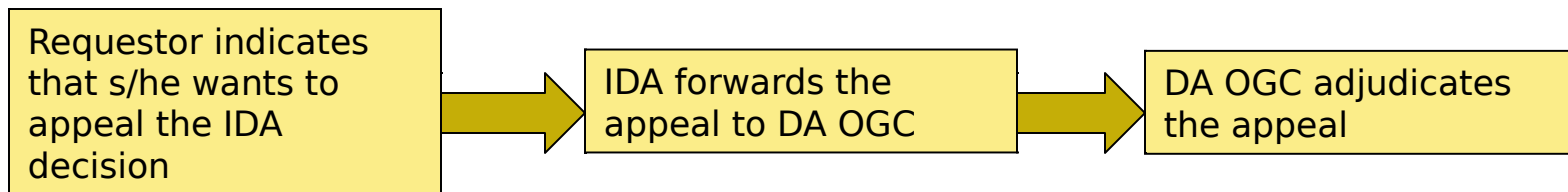


- ❑ Provide requester with administrative appeal rights in event of a full or partial denial
- ❑ Handle negotiations with requester regarding denied material before submitting appeal to OGC
- ❑ Extend 20-day deadline 10 additional days
- ❑ Make final decision regarding Exemption 4 information to be RELEASED after reviewing submitter information
- ❑ Respond to requests by other departments/agencies for consultations where information is denied.

Army FOIA Denial Process



FOIA Appeal Process





Common IDA Issues

- Sending documents to the wrong IDA
- Denying records without IDA action
- Requiring requesters to seek IDA action on their own
- Requested records contain portions that belong to different IDAs
- IDAs not knowing what records they have
denial authority over/unclear delegations of IDA authority

Common IDA Issues (cont.)



- FACTS – Only IDAs can close request for full or partial denial or “no record”
- Incomplete data calls. DA FOIA not certain all offices are reporting
- Lacking established FOIA Public Liaison. Some have DA FOIA listed
- Forwarding records for Army Reading Room



Appellate Procedure

- The Army General Counsel's Office reviews all administrative FOIA appeals.
- In the denial letter, the IDA should indicate to the requester that he or she may appeal through the IDA to OGC.
- If a requester appeals, forward the appeal to OGC with copies of:
 - Original Request; Denial Letter; Request for Appeal; Clean & Redacted versions of the requested documents; other supporting documents



OGC Procedural Concerns

- All FOIA Offices should:
 - Ensure appropriate search for records are conducted
 - Have record holders who searched prepare no records certification (if applicable)
 - Review documents for release
 - Prepare package containing documents with recommended redactions/exemptions to IDA
 - IDAs: If denying requested information, cite to the Exemption and provide a basis for applying the Exemption

Special Processing Requirements



- “No Records”
 - Certification Requirements
- Exemption 1
 - Executive Order 12958
 - Declassification Reviews
- Exemption 4
 - Executive Order 12600
 - Submitter Notice
 - “Reverse” FOIAs



Future Considerations

- FOIA/Privacy Management Team
 - Analyze size of IDA and by name tracking
 - May streamline IDA process
 - May have fewer or more IDAs
 - Garrison Commanders may become IDAs
 - Possibility of regionalizing IDAs
 - If IDA cannot fulfill responsibilities, authority can be realigned
- FOIA Alternative Dispute Resolution

IDA Responsibilities



Questions???